



BOARD OF EQUALIZATION

BUSINESS TAXES COMMITTEE MEETING MINUTES

HONORABLE JOHN CHIANG, COMMITTEE CHAIR

450 N STREET, SACRAMENTO

MEETING DATE: JANUARY 27, 2004, TIME: 9:30 A.M.

ACTION ITEMS & STATUS REPORT ITEMS

Agenda Item No: 1

**Title: Proposed Revisions to Business Taxes Committee Procedures Manual
Section 500.15, Audit and Compliance Manual Revisions**

Issue/Topic:

Should Section 500.15 of the Business Taxes Committee Procedures Manual be revised regarding the review and approval process for proposed revisions to the Sales and Use Tax Department's Audit Manual and Compliance and Procedures Manual; and to update references to units at the Board of Equalization to reflect recent organizational changes?

Committee Discussion:

There was no discussion of this item.

Committee Action/Recommendation/Direction:

The Committee approved the proposed revisions. Implementation will take place immediately.

Agenda Item No: 2

**Title: Proposed revisions to Regulation 1584, *Membership Fees*, regarding
sales of membership fees by a person other than the seller of tangible
personal property**

Issue/Topic:

Should Regulation 1584, Membership Fees, be amended to address the application of tax to sales of memberships, when the person who sells the membership is not the same person selling tangible personal property at the membership store?

Committee Discussion:Action 1 – Agreed Upon Items

- Add subdivision 1584(a)(2) to explain that when persons other than retailers make sales of memberships and the retailer's sales meet the criteria established in subdivision (a)(1) of the regulation, the gross receipts from such membership sales should be included in the taxable measure of the retailer selling tangible personal property to members and not the person selling the membership.

There was no discussion of this item.

- Make a minor correction to current subdivision 1584(a)(2), and renumber current subdivision 1584(a)(2) as 1584(a)(3), and current subdivision 1584(a)(3) as 1584(a)(4).

There was no discussion of this item.

Action 2 – Authorization to Publish

There was no discussion of this item.

Committee Action/Recommendation/Direction:Action 1 – Agreed Upon Items

The Committee approved all agreed upon items.

Action 2 – Authorization to Publish.

The Committee recommended that the Board authorize publication as adopted in the above action. There is no operative date for the amendments. Implementation will take place 30 days after approval by the Office of Administrative Law.

A copy of proposed amendments to Regulation 1584 is attached.

Approved: /s/ John Chiang
Honorable John Chiang, Committee Chair

/s/ Timothy W. Boyer
Timothy W. Boyer, Interim Executive Director

BOARD APPROVED

at the January 27, 2004 Board Meeting

/s/ Deborah Pellegrini
Deborah Pellegrini, Chief
Board Proceedings Division

Regulation 1584. MEMBERSHIP FEES.

(a) APPLICATION OF TAX

(1) IN GENERAL. Membership fees related to the anticipated retail sale of tangible personal property are includible in taxable gross receipts when either

(A) the retailer sells its products only to members and the membership fee exceeds a nominal amount,

or

(B) regardless of the amount of the membership fee, the retailer sells its products for a lower price to a person who has paid the membership fee than to a person who has not paid the fee.

(2) The membership fees described in subdivision (a)(1)(A) or (a)(1)(B) are part of the gross receipts of the person selling tangible personal property to a member. It is immaterial that the person who sold the membership is not the person who sells the tangible personal property to a member. Any sale of a membership described in subdivision (a)(1)(A) or (a)(1)(B) is regarded as related to the retail sale by the retailer selling tangible personal property to a member, not by the person selling the membership, measured by the amounts received by the person selling the membership.

~~(2)~~(3) INCIDENTAL SALES. Charges for memberships ~~fees~~not related to anticipated retail transactions are not subject to tax. For example, when a country club or similar organization charges fees (dues) to members and provides substantial service benefits, e.g., the use of golfing, tennis and swimming facilities, the membership fees are not related to sales even though the organization may establish minimum meal and drink purchase requirements for its members.

~~(3)~~(4) CONSUMER COOPERATIVES. Initial or periodic membership fees received by consumer cooperatives, as defined in sections 6011.1 and 6012.1 of the Revenue and Taxation Code, are not subject to tax.

(b) NOMINAL AMOUNT.

(1) For purposes of this regulation, beginning January 1, 2001, the term "nominal amount" means an amount totaling \$45 or less per year subject to increase as provided in subdivision (b)(2). For periods prior to January 1, 2001, the term "nominal amount" for purposes of this regulation meant an amount totaling \$40 or less per year. Amounts received for memberships which are in conjunction with a basic membership (add-ons) are not considered a part of the basic membership fee in determining the nominal amount of the basic membership. Additional cards issued under the same membership number are sales of separate memberships.

(2) During September in the year 2000, and every five years thereafter, the threshold for the nominal amount will be adjusted effective the following January 1, rounded to the nearest \$5, to reflect changes in the California Consumer Price Index (CCPI) whenever that change is more than 5 percent higher than any previous adjustment. For purposes of computing the CCPI increase, the June 30 CCPI index of the computation year will be compared with the June 30 CCPI index of the computation year which resulted in an adjusted nominal amount. For example, for the January 1, 2006 adjustment computation, the CCPI index on June 30, 2005, will be compared with the CCPI index on June 30, 2000. If no adjustment is made at that time, the next comparison will be of the CCPI index on June 30, 2010 with the CCPI index on June 30, 2000.

(c) OPERATIVE DATE. The provisions of this regulation are operative January 1, 1996.

The proposed amendments contained in this document may not be adopted. Any revisions that are adopted may differ from this text.